APPENDIX

7-9-2 Purpose.

The purpose of the Gross Receipts and Compensating Tax Act is to provide revenue for public purposes by levying a tax on the privilege of engaging in certain activities within New Mexico and to protect New Mexico businessmen from the unfair competition that would otherwise result from the importation into the state of property without payment of a similar tax.

7-9-3 Definitions.

C. "construction" means building, altering, repairing or demolishing in the ordinary course of business any:

(1) road, highway, bridge, parking area or related project;
(2) building, stadium or other structure;
(3) airport, subway or similar facility;
(4) park, trail, athletic field, golf course or similar facility;
(5) dam, reservoir, canal, ditch or similar facility;
(6) sewerage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility;
(7) sewerage, water, gas or other pipeline;
(8) transmission line;
(9) radio or other tower;
(10) water, oil or other storage tank;
(11) shaft, tunnel or other mining appurtenance; or
(12) similar work;

"construction" also means:

(13) leveling or clearing land;
(14) excavating earth;
(15) drilling wells of any type, including seismograph shot holes or core drilling; or
(16) similar work.

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F. "gross receipts" means the total amount of money or the value of other consideration, received from selling property in New Mexico, from leasing property employed in New Mexico or from performing services in New Mexico, and includes any receipts from sales of tangible personal property handled on consignment but excludes cash discounts allowed and taken, New Mexico gross receipts tax payable on transactions for the reporting period and taxes imposed pursuant to the provisions of the County Sales Tax Act, the County Gross Receipts Tax Act or the Municipal Gross Receipts Tax Act which are payable on transactions for the reporting period and any type of time-price differential.

In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, "gross receipts" means the reasonable value of the property or service exchanged.

When the sale of property or service is made under any type of charge, conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor may elect to treat all receipts, excluding any type of time-price differential, under such contracts as gross receipts as and when the payments are actually received. If the seller or lessor transfers his interest in any such contract to a third person, he shall pay the gross receipts tax upon the full sale or leasing contract amount, excluding any type of time-price differential.

"Gross receipts," for the purpose of the business of buying, selling or promoting the purchase, sale or leasing, as an agent or broker, on a commission or fee basis, of any property, service, stock, bond or security, includes only the total commission or fees derived from the business.

"Gross receipts" also includes amounts paid by members of any cooperative association or similar organization for sales

or leases of personal property or performance of services by such organization.

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K. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling property. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling.

"Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. However, sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property.

7-9-51 **Deduction; gross receipts tax; sale of tangible personal property to persons engaged in the construction business.**

A. Receipts from selling tangible personal property may be deducted from gross receipts if the sale is made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the seller.

B. The buyer delivering the nontaxable transaction certificate must incorporate the tangible personal property as:

(1) an ingredient or component part of a construction project which is subject to the gross receipts tax upon its completion or upon the completion of the overall construction project of which it is a part; or

(2) an ingredient or component part of a construction project which is subject to the gross receipts tax upon the sale in the ordinary course of business of the real property upon which it was constructed.

7-9-52 **Deduction; gross receipts tax; sale of construction services to persons engaged in the construction business.**

A. Receipts from selling a construction service may be deducted from gross receipts if the sale is made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the person performing the construction service.

B. The buyer delivering the nontaxable transaction certificate must have the construction services performed upon:

(1) a construction project which is subject to the gross receipts tax upon its completion or upon the completion of the overall construction project of which it is a part; or

(2) a construction project which is subject to the gross receipts tax upon the sale in the ordinary course of business of the real property upon which it was constructed.